# Remarks

Claims 1-19 are pending. Claims 1-19 are rejected.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pestotnik et al. (U.S. Pat. Pub. 2004/0260666) in view of Tannenbaum (U.S. Pat. Pub. 2003/0019115).

**The Examiner Does Not Establish A *Prima Facie* Case Of Obviousness**

With regard to claim 1, the Examiner asserts that

> It would have been obvious to one of ordinary skill . . . to have combined the teachings of Pestotnik et al. with those of Tannenbaum. Such a combined system and method would have referenced an expert knowledge base to evaluate entered the patient data to identify known or unknown medical conditions and provide decision-supported data to a physician including guidance as to the potential medical conditions of the patient and to aid the clinician in making informed decisions related to patient medical care (Pestotnik et al.; paragraphs [0011] [0017] [0018] [0085]). Further, such a system-enabled method, when specifically configured to assist a physician in diagnosing and treating renal diseases, would have included in the expert knowledge base, calculators/equations for providing information on well-known clinical indicators such as Glomerular Filtration Rate (GFR) as determined by well-known equations such as the Cockcroft-Gault equation and commonly employed variants thereof (Tannenbaum; Abstract and paragraphs [0025]-[0036] and [0047]).

Office Action, August 22, 2007, p. 5.

Pestotnik, however, is only configured to use "rules" to generate medical diagnoses and patient care recommendations:

> Illustrative rules and statements for the diagnosis and treatment of Pneumonia are represented in Tables 1-5 of FIGS. 6-10. As illustrated, Table 1 contains a plurality of rules that may be used by inference module 230 to generate the decision-supported patient data and the decision-supported progress note, thereby providing the clinician with a recommended medical treatment for a medical condition. Tables 2-5 (FIGS. 7-10) contain a number of rules specific to certain information collected by system 200; specifically, optionally sequentially activated rules associated with the analysis of mitigating factors, susceptibilities, and duration of treatment. One skilled in the art may appreciate that various other rules may be appropriate to generate a recommendation for treatment of Pneumonia.

> Pestotnik, [0142].

These rules are a series of if-then statements. As an example, Rule #1 of Table 1 states that

> If ventilator or non-ventilator HAP and organism unknown and interval from admission > 5 days and (severity is severe or recent prior antibiotics) and Legionella cases identified, then (ceftazidime + ciprofloxacin), (aztreonam + ciprofloxacin (admitted through intravenous)(IV)), piperacillin/tazobactam + macrolide IV

> Pestotnik, Figure 6A.

As another example, Rule #3 of Table 1 states that

> If ventilator or non-ventilator HAP and organism unknown and interval from admission > 5 days, then piperacillin/tazobactam, ceftazidime, ciprofloxacin IV.

> Pestotnik, Figure 6A.

If-then statements simply cannot be used to calculate an estimated glomerular filtration rate as claimed. As such, there is no way for Pestotnik to calculate an estimated glomerular filtration rate without changing its principle of operation. See MPEP 2143.01(VI). Accordingly, Pestotnik does not have the capability of being combined with a hand held calculator such as

that disclosed in Tannenbaum.    One of ordinary skill in the art, therefore, would not have had reason to combine the teachings of Pestotnik and Tannenbaum.

Claims 10 and 19 are patentable for the reasons claim 1 is patentable.

Claims 2-9, 11-18 are patentable because they depend from one of the independent claims.

Applicants' Attorney submits that the claims are in a condition for allowance. Applicants' Attorney respectfully requests a notice to that effect.  Applicants' Attorney also invites a telephone conference if Examiner believes that it will advance the prosecution of this application.

Please charge any additional fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

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